

No. 2025-9175

**Official Order  
of the  
Texas Commissioner of Workers' Compensation**

**Date: 3/7/2025**

**Subject Considered:**

Pennsylvania Manufacturers Indemnity Company  
PO Box 3031  
Blue Bell, Pennsylvania 19422-0754

Consent Order  
DWC Enforcement File Nos. 35014, 35505, & 35636

**General remarks and official action taken:**

This is a consent order with Pennsylvania Manufacturers Indemnity Company (Respondent). The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against Respondent.

**Waiver**

Respondent acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Respondent waives all of these rights, and any other procedural rights that apply, in consideration of the entry of this consent order.

**Findings of Fact**

1. Respondent holds a certificate of authority issued by the Texas Department of Insurance to transact the business of insurance pursuant to Tex. Ins. Code §§ 801.051-801.053 and is licensed to write workers' compensation/employers' liability insurance in Texas.
2. Respondent was classified as "poor" tier in the 2022 Performance Based Oversight (PBO) assessment. Respondent was not selected to be tiered in the 2020 and 2024 PBO assessments.

Failure to Timely Pay or Dispute Temporary Income Benefits

*File No. 35014*

3. On [REDACTED], Respondent received notice of an employee's workplace injury.
4. Respondent was required to initiate or dispute temporary income benefits (TIBs) either 15 days after it received written notice of the injury or seven days after the accrual date, whichever is later. In this case, the latest date was [REDACTED].
5. On [REDACTED], Respondent disputed the injured employee's entitlement to TIBs 170 days late by denying disability due to the compensable injury.

Failure to Timely Comply with a Contested Case Hearing Decision and Order and Failure to Pay Accrued Impairment Income Benefits Based on a Designated Doctor Report

*File Nos. 35014 & 35636*

6. On [REDACTED], Respondent received a contested case hearing decision and order (CCH D&O), which found the injured employee had disability from [REDACTED] through [REDACTED] and determined the injured employee's average weekly wage was \$[REDACTED]. The CCH D&O ordered Respondent to pay benefits in accordance with the decision.
7. The CCH D&O became final on [REDACTED]. Respondent was required to comply with the CCH D&O within 20 days. The deadline to comply was [REDACTED].
8. On [REDACTED], Respondent received a designated doctor (DD) report of a DD examination performed on [REDACTED].
9. The DD determined that the injured employee reached maximum medical improvement on [REDACTED], with a [REDACTED] % impairment rating.
10. Respondent was required to pay accrued impairment income benefits (IIBs) no later than five days after receiving the DD report, or by [REDACTED].
11. On [REDACTED], Respondent paid \$[REDACTED] in TIBs partially complying with the CCH D&O, which was two days late.

12. On [REDACTED], Respondent paid \$ [REDACTED] in IIBs in compliance with the DD report 32 days late.
13. On [REDACTED], Respondent complied with the CCH D&O by paying interest 44 days late.
14. On [REDACTED], Respondent paid interest for the late IIBs payment 14 days late.

Failure to Timely Pay Accrued TIBs

*File No. 35505*

15. Respondent was required to pay TIBs to an injured employee from [REDACTED], through [REDACTED]. The TIBs payments were due seven days after the first day of the pay period. Respondent failed to timely pay \$ [REDACTED] in TIBs as follows:

	Payment Period		Date Due	Date Paid	Days Late
a.	[REDACTED]	to [REDACTED]	[REDACTED]	[REDACTED]	9
b.	[REDACTED]	to [REDACTED]	[REDACTED]	[REDACTED]	2

16. On [REDACTED], Respondent paid interest 274 and 246 days late, respectively.

**Assessment of Sanction**

1. Failure to provide income benefits in a timely and cost-effective manner is harmful to injured employees and the Texas workers' compensation system.
2. Compliance with DWC orders is imperative to minimize disputes and resolve them promptly and fairly. In addition, failure to provide income benefits in a timely and cost-effective manner is harmful to injured employees and the Texas workers' compensation system.
3. In assessing the sanction for this case, DWC fully considered the following factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e):
  - the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the prohibited act;
  - the history and extent of previous administrative violations;

- the violator's demonstration of good faith, including actions it took to rectify the consequences of the prohibited act;
  - the penalty necessary to deter future violations;
  - whether the administrative violation had a negative impact on the delivery of benefits to an injured employee;
  - the history of compliance with electronic data interchange requirements;
  - to the extent reasonable, the economic benefit resulting from the prohibited act; and
  - other matters that justice may require, including, but not limited to:
    - PBO assessments;
    - prompt and earnest actions to prevent future violations;
    - self-report of the violation;
    - the size of the company or practice;
    - the effect of a sanction on the availability of health care; and
    - evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
4. DWC found the following factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e) to be aggravating:
- a. the seriousness of the violation, including multiple violations involving the same claim, the economic harm to multiple injured employees, a pattern of late payments, violation of a DWC order, which is a priority investigation under Tex. Lab. Code § 415.0235;
  - b. Respondent's disciplinary history, including four recent actions involving late benefits;
  - c. the penalty necessary to deter future violations;
  - d. the negative impact on the delivery of benefits to multiple injured employees; and
  - e. and other matters that justice may require, including but not limited to Respondent's poor PBO assessment and a heightened awareness of the legal duty to comply with the law.
5. DWC is aware of no mitigating factors pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).
6. Respondent acknowledges communicating with DWC about the relevant statute and rule violations alleged; that the facts establish that the administrative violation(s) occurred; and that the proposed sanction is appropriate, including the

factors DWC considered under Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).

7. Respondent acknowledges that, in assessing the sanction, DWC considered the factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).

### **Conclusions of Law**

1. The commissioner has jurisdiction over this matter pursuant to Tex. Lab. Code §§ 402.001; 402.00114; 402.00116; 402.00128; 414.002; and 414.003.
2. The commissioner has the authority to dispose of this case informally pursuant to Tex. Gov't Code § 2001.056; Tex. Lab. Code §§ 401.021; 402.00128(b)(6)-(7); and 28 Tex. Admin. Code § 180.26(h) and (i).
3. Respondent has knowingly and voluntarily waived all procedural rights to which it may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intent to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, a rehearing by the commissioner, and judicial review.
4. Pursuant to Tex. Lab. Code § 415.021, the commissioner may assess an administrative penalty against a person who commits an administrative violation.
5. Pursuant to Tex. Lab. Code § 415.002(a)(20) and (22), an insurance carrier or its representative commits an administrative violation each time it violates a DWC rule or a provision of the Texas Workers' Compensation Act.

### Failure to Timely Pay or Dispute Initial TIBs

#### *File No. 35014*

6. Pursuant to Tex. Lab. Code § 408.101, an employee is entitled TIBs if the employee has a disability and has not attained maximum medical improvement.

Pursuant to Tex. Lab. Code §§ 408.081; 409.023; and 415.002(a)(16), an insurance carrier must pay benefits weekly, as and when the benefits accrue, without order from the commissioner.

7. Pursuant to Tex. Lab. Code §§ 408.081; 408.082; 409.021; and 28 Tex. Admin. Code §§ 124.3 and 124.7, an insurance carrier is required to initiate payment of TIBs no later than the 15th day after it receives written notice of the injury or the seventh day after the accrual date, unless the insurance carrier notifies DWC and the injured employee in writing of its refusal to pay.
8. Respondent violated Tex. Lab. Code §§ 409.021; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code §§ 124.3 and 124.7 when it failed to timely dispute initial TIBs.

Failure to Timely Comply with a CCH D&O

*File No. 35014*

9. Pursuant to Tex. Lab. Code §§ 415.0035(e) and 415.021(a), an insurance carrier commits an administrative violation by failing to comply with a DWC order.
10. Pursuant to Tex. Lab. Code § 410.169 and 28 Tex. Admin. Code § 142.16, a party is required to comply with a CCH D&O within 20 days of the order becoming final. However, if the CCH D&O involves benefits, a party must comply no later than the fifth day after filing a written request for appeal.
11. Respondent violated Tex. Lab. Code §§ 410.169; 415.002(a)(20) and (22); 415.0035(e), 415.021; and 28 Tex. Admin. Code § 142.16 when it failed to timely comply with a DWC order for benefits.

Failure to Pay Accrued IIBs Based on a DD Report

*File No. 35636*

12. Pursuant to Tex. Lab. Code § 408.0041(f), an insurance carrier must pay benefits based on the opinion of the DD during any pending dispute.
13. Pursuant to Tex. Lab. Code §§ 408.081, 409.023, and 415.002(a)(16), an insurance carrier must pay benefits weekly, as and when the benefits accrue, without order from the commissioner.

14. Pursuant to 28 Tex. Admin. Code § 127.10(i), an insurance carrier must pay all benefits in accordance with the DD report for the issues in dispute no later than five days after receiving the report.
15. Respondent violated Tex. Lab. Code §§ 409.023 and 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code § 127.10(i) by failing to timely pay accrued income benefits in accordance with a DD report no later than five days after receiving the report.

#### Failure to Timely Pay Accrued TIBs

##### *File No. 35505*

16. Pursuant to Tex. Lab. Code § 408.101, an employee is entitled to TIBs if the employee has a disability and has not attained maximum medical improvement.
17. Pursuant to Tex. Lab. Code §§ 408.081, 409.023, and 415.002(a)(16), an insurance carrier must pay benefits weekly, as and when the benefits accrue, without order from the commissioner.
18. Pursuant to Tex. Lab. Code §§ 408.081, 408.082, and 28 Tex. Admin. Code § 124.7, an insurance carrier is required to pay TIBs no later than the seventh day after the accrual date.
19. Respondent violated Tex. Lab. Code §§ 409.023; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code § 124.7 each time Respondent failed to timely initiate payment of TIBs.

#### Failure to Timely Pay Interest

##### *File Nos. 35014, 35505, & 35636*

20. Pursuant to Tex. Lab. Code § 408.064 and 28 Tex. Admin. Code § 126.12(b), accrued but unpaid income benefits and interest shall be paid in a lump sum.
21. Respondent violated Tex. Lab. Code §§ 408.064 and 415.002(a)(20) and (22) and 28 Tex. Admin. Code § 126.12(b) each time it failed to pay interest with accrued but unpaid income benefits.

**Order**

It is ordered that Pennsylvania Manufacturers Indemnity Company must pay an administrative penalty of \$12,000 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Pennsylvania Manufacturers Indemnity Company must pay the administrative penalty by electronic transfer using the State Invoice Payment Service, company check, cashier's check, or money order and make it payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: DWC Enforcement Section, MC AO-9999, PO Box 12030, Austin, Texas 78711-2030.



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Jeff Nelson  
Commissioner  
TDI, Division of Workers' Compensation

Approved Form and Content:



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Tyrus Housh  
Staff Attorney, Enforcement  
Compliance and Investigations  
TDI, Division of Workers' Compensation

**Unsworn Declaration**

STATE OF Pennsylvania §  
COUNTY OF Montgomery §  
§

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Michelle James. I hold the position of VP Technical Claims and am the authorized representative of Pennsylvania Manufacturers Indemnity Company. My business address is:

380 Sentry Pkwy Blue Bell Montgomery PA 19422  
(Street) (City) (County) (State) (ZIP Code)

I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the facts stated in this document are true and correct.

Michelle B. James  
Declarant

Executed on January 30, 2025.